

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

MARYANN BERNAZ, on behalf of herself
and all others similarly situated,

Plaintiff,

VS.

CHOBANI, INC.,

Defendant.

Civil Action No. 12-cv-02845-ARR-JO

**STIPULATION AND [PROPOSED]
ORDER FOR SECOND EXTENSION
OF TIME FOR DEFENDANT TO
RESPOND TO COMPLAINT**

U.S. District Judge Allyne R. Ross

WHEREAS, on June 6, 2012, Plaintiff Bernaz commenced this action by filing the Complaint;

WHEREAS, on June 25, 2012, the Court granted the request of Defendant Chobani, Inc. (“Chobani”) to extend its time to respond to the Complaint until July 30, 2012 [Docket No. 4];

WHEREAS, on May 14, 2012 (approximately three weeks before this action was filed), another case was filed against Chobani in the Northern District of California¹ challenging the same alleged false advertising at issue in this action;

WHEREAS, Chobani intends to move to transfer this action to the Northern District of California under the “first-filed” rule;

WHEREAS, Chobani advised Plaintiff of its intention to move to transfer and asked Plaintiff if she would stipulate to the transfer;

WHEREAS, Plaintiff desires additional time to consider whether to stipulate to a transfer and proposed a one-week extension of the July 30, 2012 deadline for Chobani to initiate motion proceedings (*i.e.*, by filing a pre-motion conference request letter under the Court’s procedures);

WHEREAS, Chobani is agreeable to an extension in an effort to avoid, if possible, burdening the Court with unnecessary motion practice; and

WHEREAS, the parties agree Chobani’s deadline to respond to the Complaint should be vacated, and such deadline should be re-set after it is determined whether this action will be transferred to the Northern District of California (either by motion or stipulation);

THEREFORE, IT IS HEREBY STIPULATED that:

1. Chobani’s deadline to initiate proceedings on a motion to transfer under the first-filed rule shall be continued from July 30, 2012 to August 6, 2012; and

¹ *Kane v. Chobani, Inc.*, Case No. CV 12-02425 (N.D. Cal. complaint filed May 14, 2012).

2. Chobani's deadline to move to dismiss or otherwise respond to the Complaint shall be vacated and re-set (if at all) after it is determined whether this action will be transferred to the Northern District of California (either by motion or stipulation).

AGREED TO BY:

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Attorney for Defendant, CHOBANI, INC.

SO ORDERED:

Dated:

Allyne R. Ross
U.S. District Judge